

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JUDYTH HARLAN)
Plaintiff,)
v.)
JOHNSON & JOHNSON, JOHNSON & JOHNSON)
CONSUMER COMPANIES, INC., IMERYS TALC)
AMERICA, INC., PERSONAL CARE PRODUCTS)
COUNCIL, and WALGREEN CO.)
Defendants.)
Case No. 3:15-cv-418-JPG-SCW

MEMORANDUM AND ORDER

In light of Seventh Circuit Court of Appeals admonitions, *see Foster v. Hill*, 497 F.3d 695, 696-97 (7th Cir. 2007), the Court has undertaken a rigorous initial review of pleadings to ensure that jurisdiction has been properly pled. *See Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010) (noting courts' "independent obligation to determine whether subject-matter jurisdiction exists, even when no party challenges it"). The Court has noted a potentially serious jurisdictional issue. It appears on the face of the pleadings that federal diversity jurisdiction under 28 U.S.C. § 1332(a) does not exist. Diversity jurisdiction requires that the opposing parties not be citizens of the same state. *Strawbridge v. Curtiss*, 7 U.S. (3 Cranch) 267 (1806). However, complete diversity does not exist in this case; plaintiff Judyth Harland and defendant Walgreen Co. are both citizens of Illinois

Defendants Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc. (the “J&J Defendants”) ask the Court to disregard the citizenship of defendant Walgreen Co. because it is fraudulently joined as a defendant. Before deciding whether the Court has diversity

jurisdiction by virtue of this theory, the Court would like to hear from the plaintiff.

Accordingly, the Court **ORDERS** the plaintiff to respond on or before May 22, 2015, to the arguments made in the notice of removal regarding the fraudulent joinder theory. The J&J Defendants and defendant Imerys Talc America, Inc. may reply to that response on or before June 5, 2015. No brief shall exceed ten pages.

IT IS SO ORDERED.
DATED: April 28, 2015.

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE